

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

TONY FISHER, aka KELLIE)	
REHANNA,)	CASE NO.: 4:19-CV-1169
)	
Plaintiff,)	
)	JUDGE SARA LIOI
vs.)	
)	<u>NOTICE OF FILING THE DEPOSITON</u>
FEDERAL BUREAU OF PRISONS,)	<u>OF PAUL CLIFFORD, Psy.D.</u>
<i>et al.</i> ,)	
)	
Defendants.)	

Plaintiff, Tony Fisher, aka Kellie Rehanna, by and through counsel, hereby notifies this Court and Defendants that the deposition of Paul Clifford, Psy.D. that was taken on July 29, 2021 (attached hereto) has been filed in this case.

Respectfully submitted,

/s/Edward A. Icove

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CERTIFICATE OF SERVICE

On August 27, 2021, this document was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this through the Court's system.

/s/ Edward A. Icové
Edward A. Icové

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

- - -

Tony Fisher, aka)
Kellie Rehanna,)
Plaintiff,)
vs.)
Federal Bureau of)
Prisons, et al.,)
Defendants.)

Case No. 4:19CV1169
Sara Lioi, J.

- - -

Deposition of Paul Clifford, M.D., a witness
herein, called on behalf of the plaintiff for oral
examination, pursuant to the Federal Rules of Civil
Procedure, taken before Karen A. Toth, Notary Public
in and for the State of Ohio, via Zoom, on Thursday,
July 29, 2021, commencing at 9:41 a.m.

- - -

1 APPEARANCES:

2 On behalf of the Plaintiff:

3 Ed Icove, Esq.
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9 On behalf of the Defendants:

10 Joshua Gardner, Esq.
11 Gary Feldon, Esq.
12 Joshua Kolsky, Esq.
13 United States Department of Justice
14 Civil Division, Federal Programs Branch
15 1100 L Street NW
16 Room 11502
17 Washington, D.C. 20005
18 202-305-7583

19 Also present:

20 Kellie Rehanna

21 - - -

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WITNESS: CROSS REDIRECT RECROSS

Paul Clifford, M.D.

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By Mr. Gardner 29

- - -

1 MR. ICOVE: Josh, could you just
2 stipulate that we can have the court reporter
3 administer the oath?

4 MR. GARDNER: Of course.

5 PAUL CLIFFORD, M.D.
6 Of lawful age, being first duly sworn, as
7 hereinafter certified, was examined and testified as
8 follows:

9 MR. GARDNER: And just for the
10 record, Karen, the witness will read and sign.

11 CROSS-EXAMINATION

12 By Mr. Icove:

13 Q Good morning, Doctor. My name is Ed Icove and
14 I represent Tony Fisher also known as Kellie
15 Rehanna who I will be referring to as Kellie
16 in her case. And the case is against the BOP
17 and the Federal Correction Institute Elkton.

18 Your testimony today is the same as if
19 you were in court, except, as you know, there
20 is no judge present. So your counsel may
21 object to a question, and since there is no
22 judge present an objection will have to be
23 considered, if necessary, by the court at a
24 later time. You must note that if your
25 counsel does object you still must answer the

1 question to the best of your ability unless he
2 tells you not to.

3 Can you briefly provide me with your
4 educational background, employment history at
5 the BOP?

6 A Sure. I've got educational history. What was
7 the second part that you wanted?

8 Q Oh, I'm sorry. Educational history or
9 employment history at the BOP.

10 A Okay. I hold a doctoral degree in clinical
11 psychology and I have been working with the
12 Federal Bureau of Prisons at FCI Elkton since
13 approximately June of 1999. And I initially
14 started as the drug abuse program coordinator
15 in again approximately June 1999, and then I
16 became the chief psychologist in approximately
17 2001.

18 Q Are you board certified in psychology?

19 A No.

20 Q But you do take continuing legal education on
21 a regular basis?

22 A Yes. For purposes of clarification that I am
23 licensed, I do hold a license in psychology.

24 Q In the State of Ohio?

25 A In Pennsylvania.

1 Q In Pennsylvania. Okay.

2 A Correct.

3 Q If I recall correctly Elkton is in the Ohio;
4 is it not?

5 A Yes. I can provide clarification.

6 Q It's not necessary. I was just curious, sir.

7 A Okay. Yes. Yes.

8 Q What documents did you review in preparation
9 for today's deposition?

10 A I reviewed documents that I'm familiar with to
11 include psychology services program statements
12 and associated documents related to program
13 statements as well as an exhibit that was
14 forwarded to me regarding medical management
15 of individuals with transgender status.

16 Q Did you have an opportunity at all to review
17 Kellie's chart?

18 A Yes.

19 Q Did you provide services to Kellie in your
20 position at Elkton?

21 A Yes.

22 Q And do you recall the approximate period of
23 time?

24 A I provided services in varies capacities since
25 I believe 2015 when she arrived at Elkton up

1 through the current time.

2 Again, I want to clarify that it was in
3 varying capacities in provisional services.

4 Q Could you just briefly explain to us what
5 capacities those were?

6 A Sure. At times it involved direct patient
7 care, at other times it involved more
8 administrative contacts in terms of
9 facilitating various procedures related to
10 transgender status procedures here at the
11 facility. And then to include oversight of
12 the psychology department wherein I have
13 varying -- again, have knowledge of the
14 individuals under our care.

15 Q What was the period of time that you provided
16 direct care for her; if you recall?

17 A I don't recall. It varied over the span of
18 six years or so that she has been here and it
19 -- it varied so much that I don't recall the
20 exact time frames.

21 Q That's fine. So in summary is it fair to say
22 that you've been involved in the treatment
23 plan, treatment and other decisions related to
24 Kellie's case?

25 A Yes.

1 Q Insofar as your personal interaction with
2 Kellie is concerned, was she cooperative with
3 you?

4 A Yes.

5 Q And insofar as your personal interaction with
6 Kellie was concerned, did she do everything
7 that you requested?

8 A Yes. And in terms of a more recent series of
9 interactions with her in terms of recommending
10 the sex offender treatment program she has
11 conveyed that she is uncertain on that at this
12 time.

13 Q Okay. Let's talk about that particular
14 program a little bit later, but I want to ask
15 you a couple other questions first, if I may.

16 Since 2015 is it fair to say that
17 Kellie lived as a woman at Elkton?

18 A Yes, to the degree that I am aware for at
19 least a certain period of that time.

20 Q What period of time are you aware that she did
21 live as a woman at Elkton?

22 A Well, let me explain in terms of my -- my
23 knowledge of that would be through my
24 behavioral observations, essentially my
25 interactions with her, what I observed. So

1 what I've observed for some years, again, in
2 approximation, that in my interactions with
3 her she presented in a female capacity for
4 some years now.

5 And I cannot vouch or verify whether
6 that is the case all the time when someone is
7 not essentially in front of me, but during
8 other portions of the day.

9 Q That's fine. Doctor, you can only testify to
10 what you can observe and remember and relate
11 to us today, and you're doing a good job. So
12 I just wanted to let you know we don't expect
13 you to do anything else except abide by that
14 particular rule.

15 A Okay.

16 Q Do you recall in February of 2018 that you
17 signed off on Kellie's request for
18 gender-affirming surgery that was sent to the
19 BOP?

20 MR. GARDNER: Objection. Beyond
21 the scope of the 30(b)(6).

22 Q You can answer, Dr. Clifford.

23 Yeah, one of the things is that your
24 attorney is making objections for the record
25 which may or may not be necessary. But since

1 there is no judge here to rule on that
2 particular objection you need to answer it
3 anyway so that we don't have to have you come
4 back later.

5 A Yeah. I don't recall that.

6 Q Do you recall any request that she made for
7 gender-affirming surgery that was sent to the
8 BOP at all?

9 A Yes. I am aware of at least one request that
10 was sent from the institution regarding
11 request for gender-affirming surgery.

12 Q And did that come across your desk?

13 A I don't recall that it did.

14 Q Do you remember what year that was?

15 A No, I do not.

16 Q Was that her first request, to the best of
17 your recollection?

18 A The one that I'm recollecting, yes, to the
19 best of my recollection it was the first
20 request.

21 Q Was it initiated by Kellie?

22 A In terms of the overall time frame, her as the
23 patient initiated or was in pursuit of that
24 intervention and then that cascaded into the
25 other steps of the request being forwarded

1 from the institution regarding
2 gender-affirming surgery.

3 Q Are you aware of any other requests that were
4 made for gender-affirming surgery by Kellie?

5 A As I mentioned before, I'm aware of at least
6 that one. And beyond that I -- I'll say no to
7 any further knowledge.

8 Q Is it your understanding that the BOP
9 considered Kellie's transfer to a female
10 prison if she went to Devens, Massachusetts to
11 complete a sex offender treatment program?

12 MR. GARDNER: Objection. Beyond
13 the scope of the 30(b)(6). You can answer,
14 Dr. Clifford.

15 A Can you either restate the question, just so I
16 want to be able to understand it to answer it
17 accurately?

18 Q Certainly. Is it your understand that the BOP
19 can reconsider Kellie's transfer to a -- is it
20 your understand that the -- strike that.

21 Is it your understand that the BOP
22 would consider Kellie's transfer to a female
23 prison if she went to Devens, Massachusetts to
24 complete sex offender treatment?

25 A It's my understanding that completion of the

1 sex offender treatment program would need to
2 occur before consideration to a female
3 facility would be considered.

4 Q Is that particular understanding based upon
5 any documents that you're aware of?

6 A No.

7 Q And what is it based upon; if you recall?

8 A Conversations or direction regarding the
9 consideration of that request from -- I'm
10 trying to recall the individual. But someone
11 I believe from central office regarding the
12 need to look at that component before
13 transferred to a -- the female facility could
14 be considered.

15 Q Is it fair to say that the sex offender
16 treatment could be, for example, done under
17 supervised release?

18 A The sex offender treatment program in the
19 Bureau of Prisons is a program only offered to
20 incarcerated individuals. They're -- yeah,
21 that's all on that.

22 Q Are you aware that it's offered to people
23 while they are on supervised release?

24 A I'm aware that sex offender treatment
25 programming is available for people on

1 supervised release, but in terms of the
2 Federal Bureau of Prisons' sex offender
3 treatment program that we're speaking of, that
4 I believe is only available for individuals
5 who are currently or actively incarcerated.

6 Q And it was your recommendation that she
7 perform this particular treatment?

8 MR. GARDNER: Objection. Beyond
9 the scope of the Rule 30(b)(6).

10 A Yes.

11 Q And what was that? What was your rationale?

12 A In terms of fully allowing an individual --
13 transgender individual who is seeking
14 gender-affirming surgery, which really is
15 essentially irreversible, the expectation of
16 clinical standards is that the individual live
17 for at least a year fully as a -- in this case
18 a female capacity. I believe that in -- I
19 concur with the Bureau of Prisons, which is my
20 understanding of the agency's kind of overall
21 understanding of this is that in order to
22 fulfill that in a clinically relevant manner
23 while incarcerated the individual needs to go
24 to a female facility to fully experience as
25 much as possible what that role is as a female

1 and all the social kind of adjustments and
2 various other aspects that come with taking on
3 that role.

4 Doing so in a male facility as a male
5 seeking to be, you know, gender-affirming
6 surgery to a female, really only approximates
7 that. So in an effort to get the individual
8 to -- this individual to a female facility you
9 have to look at some things that are specific
10 or unique to managing a correctional
11 environment.

12 So this individual has a sexually
13 related offense which I believe I concur with
14 the Bureau in that it needs to be looked at
15 and addressed via sex offender treatment
16 program before consideration to a female
17 facility can take place.

18 Q Thank you.

19 Do you know the facts surrounding that
20 particular sex offender decision by the
21 criminal court as to what she was convicted
22 of?

23 A I recall generally that it involved either
24 taking pictures or -- and/or attempting to
25 take pictures of a minor. And I believe that

1 there was some pornographic aspects to that.
2 Beyond that, I don't recall the exact
3 specifics.

4 Q That's fair. Is it fair to say that her
5 particular offense had nothing to do with any
6 contact with any minor?

7 A I apologize if that -- if you heard that. I
8 get notifications of email, so I may hear
9 things that you don't hear.

10 Q You don't have to apologize to us for
11 anything, Doctor.

12 A Okay.

13 Q Go ahead.

14 A Sure. Contact offense in the field is defined
15 kind of in the most direct kind of overt
16 manner as literally hands-on contact, but it's
17 also defined in the field as an individual who
18 is basically in the same proximity as the
19 victim versus say someone who views child
20 pornography remotely.

21 So in this case it's considered a
22 contact-related offense.

23 Q Thank you, Doctor.

24 But it's fair to say that despite that
25 particular definition Kellie didn't actually

1 touch any offender -- excuse me, touch any
2 child in any way?

3 MR. GARDNER: Objection. Lack of
4 foundation.

5 Q Based upon your knowledge did Kellie actually
6 physically touch any juvenile?

7 A No, not to my knowledge.

8 Q Are you aware of any document that requires
9 Kellie to complete sexual offender treatment
10 in order to be transitioned into a female
11 facility?

12 MR. GARDNER: Objection. Beyond
13 the scope of the 30(b)(6).

14 Q I'm sorry, Doctor, I didn't hear your answer.

15 A I want to make sure I'm answering the question
16 appropriately. Is it -- can I confer with
17 Counsel Gardner?

18 Q No, unfortunately you're not allowed to confer
19 during the middle of a question. So why don't
20 we just see if we can work it out between the
21 two of us.

22 MR. GARDNER: Just to be clear,
23 Dr. Clifford, I assume you don't need to
24 consult with me with respect to a privilege,
25 because then we absolutely would consult off

1 the record.

2 Q Right. And I'm not asking you any privileged
3 information and I don't want to hear any
4 privileged information today.

5 MR. GARDNER: So, Dr. Clifford, if
6 you can answer that sort of question without
7 divulging privilege you should feel free to do
8 so. If you have a question as to whether you
9 can answer that question and what's
10 privileged, then we absolutely should consult.

11 A I do believe it falls under the umbrella of a
12 question about privilege.

13 Q Okay. Well, let me restate it.

14 Are there any documents that you're
15 aware of in the BOP that require a sexual
16 offender to complete sexual offender treatment
17 in order to be transferred to a female
18 facility?

19 MR. GARDNER: Beyond the scope of
20 the 30(b)(6).

21 A No.

22 Q Would you look at Exhibit 1 just for a minute.
23 And I was specifically looking at page 19, if
24 you would.

25 A What page did you say, sir?

1 Q Page 19.

2 A Yes, I have it.

3 Q Can you just read that over?

4 A Sure. Do you mean Section 12?

5 Q Yeah. Just to yourself. I don't need you to
6 read it for the record.

7 A Yes, I've completed reading.

8 Q Okay. I would like to go through those
9 criteria with you just briefly, and then I'm
10 almost done. I'll have a couple more
11 questions for you.

12 Let's go through each of the criteria,
13 and I would like your knowledge as to whether
14 or not Kellie has completed each of those
15 criteria, and if not why not.

16 MR. GARDNER: And just for the
17 record, I'll just be making a continuing
18 objection. This is well beyond the scope of
19 the 30(b)(6) topics for which Dr. Clifford has
20 been designated.

21 MR. ICOVE: And again for the
22 record, we'll stipulate to that particular
23 objection.

24 Q You need to go through these with me, if you
25 would.

1 A Sure.

2 MR. GARDNER: I'm sorry, Ed. What's
3 the question?

4 MR. ICOVE: The question was I
5 wanted to go through these criteria with him.
6 I'll go through them individually and I wanted
7 to know what Kellie's status was, whether she
8 completed that particular criteria or she
9 didn't complete it or she's in the process of
10 completing it. So let's start with the first
11 one.

12 MR. GARDNER: Okay. And I'll just
13 also lodge a continuing objection to lack of
14 foundation.

15 MR. ICOVE: That's fine.

16 A Do you want to read each criterion or would
17 you like me to read it and then comment?

18 Q You've already read them. I can. Has she met
19 the criteria for at least 12 months of
20 successful use of hormonal therapy?

21 A I do believe she has, insomuch as I'm a mental
22 health professional not an actual provider of
23 the hormonal treatment.

24 Q Right. And you can only testify from your
25 particular vantage point; is that fair?

1 A Yes, that's correct.

2 Q Has she participated in psychotherapy as
3 clinically indicated?

4 A Yes.

5 Q And I think we already touched on this one.
6 Is it fair to say that she had a full-time
7 real life experience at Elkton of her
8 preferred gender and consolidation of her
9 gender identify?

10 MR. GARDNER: Objection. Misstates
11 the witness's previous testimony.

12 A I believe to the degree that I'm aware in that
13 she has been able to live a life -- her life
14 experience in her preferred gender at a male
15 facility she has. And then lastly, in terms
16 of consolidation of gender identity, yes.

17 Q Thank you.

18 A Now, I would want to clarify that in my
19 opinion those points are not mutually
20 exclusive. That consolidation is tied, in my
21 opinion, to some degree to living a full-time
22 real life experience in order for the person
23 to make an informed -- a fully informed
24 decision about that level of consolidation.

25 So again, to the degree that she has

1 been able to live in that life experience
2 here, yes.

3 Q Has she demonstrated a consent to go forward
4 with the gender-affirming surgery?

5 A She has indicated a verbal indication. For me
6 consent implies certain levels of kind of
7 almost really a written level of understanding
8 and a full agreement on consent to do that.

9 But to put it plainly, yes, she has
10 certainly indicated an agreement to have the
11 surgery.

12 Q Did she indicate at least to you from your
13 professional capacity a practical
14 understanding of what would be involved in
15 gender-affirming surgery?

16 A I don't recall exact specific personal
17 knowledge of that, although that may have been
18 discussed through other contacts that she's
19 had with psychology over the six approximate
20 years that she's been here.

21 Q Is there anything in this particular section,
22 12, that mentions that an inmate must be
23 transferred to a female institution?

24 A No.

25 Q And is there anything in this particular

1 section that indicates that an inmate must
2 complete sexual offender training, or therapy,
3 excuse me, in order to be transferred to a
4 female facility?

5 A No.

6 Q Is there anything in here that says that a
7 person needed to be transferred to a female
8 institution to obtain gender-affirming
9 surgery?

10 A No.

11 Q And is there anything in this provision that
12 provides any mention for any inmates to be
13 transferred to a female institution?

14 A No.

15 Q Okay. There is nothing in there at all about
16 that?

17 A If I can clarify. There is nothing direct nor
18 overt regarding that. I mean, as I mentioned
19 before, the full-time real life experience in
20 the preferred gender, that is -- certainly has
21 to be thoughtfully -- how can I say, that
22 there is a lot imbedded within that small
23 statement in terms of ensuring that the
24 person, that the patient really is ultimately
25 given the opportunity to fully experience the

1 full ramifications of adopting the role
2 ultimately, all the social roles, expectations
3 and other aspects of being the other gender
4 for which they originally were assigned at
5 birth.

6 So I felt the need to at least kind of
7 explain that capacity of it.

8 Q No, I appreciate it.

9 Is there anything listed in these
10 criteria that mentions that a person must
11 complete sexual offender training in order to
12 be transferred to a female institution?

13 A No.

14 Q Two more questions. Does the BOP or the -- or
15 the Federal Correction Institution at Elkton
16 request any gender dysphoria experience,
17 knowledge or otherwise of any clinical or
18 contractor that treats inmates with gender
19 dysphoria at Elkton?

20 A Yes. In the same manner that it expects
21 clinicians to provide services consistent with
22 professional standards in the treatment of any
23 condition that clinician may assess or treat.
24 And I can -- I can clarify further that these
25 professional standards that I speak of

1 essentially -- essentially call for the
2 clinician to utilize their clinical expertise
3 in delivering psychological services. And the
4 clinical expertise essentially comes down to a
5 composition or combination of the clinician's
6 education, training, experience --
7 professional and supervised experiences,
8 consultation, study, things along those lines.
9 And the program statement, the main program
10 statement for psychology services outlines
11 this overall in the main program statement
12 which is the psychology services manual and
13 program statement.

14 Q If I understand correctly it's basically up to
15 the clinician to get education regarding
16 gender dysphoria through continuing education?

17 A That's a component to it. I think the, you
18 know, clinical expertise or competence to
19 practice in a certain area or with a certain
20 group of individuals or with a certain
21 condition comes down to a combination of those
22 various things that I mentioned before, and
23 then as part of the clinician's training and
24 adherence to ethical standards it's up to that
25 clinician to ensure that they are clinically

1 expert enough or competent enough to practice.
2 So my long way of saying ongoing continuing
3 education may be part of that, depending upon
4 what those other components of a person's
5 credentials essentially are.

6 Q Is there any explicit mandate to take gender
7 dysphoria education?

8 A Within the Bureau of Prisons?

9 Q Yes, I'm sorry.

10 A Oh, I'm not aware of any specific mandate.

11 Q Do you know whether or not there are any
12 gender dysphoria experts or people that
13 specialize in it that work for the BOP?

14 MR. GARDNER: Objection. Vague and
15 compound.

16 A Should I go --

17 Q Do you want me to divide that question up for
18 you?

19 A Yes, could you please divide it up for me?

20 Q Certainly. Are you aware of anybody who is a
21 gender dysphoria expert who works for the
22 Bureau of Prisons?

23 MR. GARDNER: Objection. Vague.

24 A I -- yes.

25 Q And who are those people?

1 A There are individuals in the central office
2 location specifically working with the
3 division's special populations that are
4 available as consultants or they are there in
5 the role of subject matter experts.

6 Q Are you aware of any consultants that were
7 asked to help out in Kellie's case?

8 A I recall that we -- psychology services may
9 have reached out or had consultation with
10 individuals from that branch, but I don't
11 recall the specifics of it.

12 Q If such a person did review her case would you
13 expect to see that in her particular medical
14 records, administrative records?

15 MR. GARDNER: Objection. Calls for
16 speculation.

17 A Can you put that in maybe other terms --

18 Q Certainly.

19 A -- for me?

20 Q Did you ever see anything in writing that a
21 gender dysphoria expert reviewed Kellie's
22 case?

23 A Ed, can you clarify further essentially where
24 that writing -- you know, records in her
25 psychology or medical record?

1 Q Yes.

2 A So I don't recall -- yeah, I don't recall
3 anything in her records.

4 Q And again, you can only testify to what you
5 can observe, remember, relate. You can't
6 testify to things that you don't remember.

7 Has the BOP -- has the BOP relied upon
8 any of these or any expert in gender dysphoria
9 in this particular case, that you're aware of?

10 MR. GARDNER: Objection. Lack of
11 foundation.

12 A The institution forwarded requests related to
13 gender-affirming surgery to the Transgender
14 Executive Committee.

15 Q Do the defendants require any gender dysphoria
16 experience, knowledge or otherwise of any
17 staff or contractor responsible for creating a
18 treatment plan for Kellie?

19 A Essentially the same answer I provided before
20 regarding that; yes, in that the Bureau
21 expects that clinicians have adhered to
22 professional standards, exercise clinical
23 expertise or competence in their delivery of
24 services, which in this case includes writing,
25 drafting updating treatment plans.

1 Q If a gender dysphoria expert did review
2 Kellie's case where would that particular
3 written review show up in her medical or
4 administrative file?

5 MR. GARDNER: Objection. Lack of
6 foundation.

7 A I -- I don't know.

8 Q Have you ever seen any gender dysphoria expert
9 writing in her file, that you recall?

10 A Are you referring to individuals from the
11 Transgender Executive Committee?

12 Q Yes.

13 A I have not seen any documentation to that
14 effect in her medical or psychology record.

15 Q Are you aware that her current hormonal level
16 on June 15, 2021 was 252?

17 A No.

18 MR. GARDNER: Objection. Beyond
19 the scope of the Rule 30(b)(6).

20 Q I have no further --

21 A No.

22 Q Thank you, Doctor. I don't have any further
23 questions of you at this time. And I want to
24 thank you for coming today and taking time out
25 of your busy day.

1 MR. GARDNER: I've got a few
2 questions for you, Dr. Clifford.

3 REDIRECT EXAMINATION

4 By Mr. Gardner:

5 Q I want to ask you, with respect to Exhibit 1
6 entitled the medical management of transgender
7 inmates from December 2016, is that a document
8 you were familiar with before this deposition?

9 A Yes.

10 Q Is it a document that you routinely use in
11 your practice?

12 A In that it is a resource and I am
13 knowledgeable of it and should apply that in
14 day-to-day practice, yes.

15 Q I want to turn to page 19. It is Section 12,
16 the gender-affirming aka sex reassignment
17 surgery section that Mr. Icové had asked you
18 about. And one of the criteria is listed as
19 full-time real life experience in their
20 preferred gender. And you testified to
21 Mr. Icové, and I think I'm quoting here
22 directly, that there is a lot imbedded in that
23 statement. What did you mean by that?

24 A That the words full-time real life experience
25 carry with it a fully lived continuous

1 experience of life in the preferred gender
2 role from which they were not assigned at
3 birth. And it involves all the various
4 aspects of living in that role on a day-to-day
5 basis, interacting with people, understanding
6 during that continuous year as much as
7 possible the full impact of what that means to
8 take on the other role.

9 Q In your judgment can that be done as a
10 transgender female living in a male
11 institution?

12 MR. ICOVE: Objection. You can
13 answer.

14 A No.

15 Q Why not?

16 MR. ICOVE: Again, continuing
17 objection.

18 A I do not believe that that can be -- that that
19 element can be fulfilled in a male facility
20 because of the inherent limitations associated
21 with the environment and the -- I'm sorry my
22 screen kind of just took on a different form.
23 Can you hear me?

24 Q Perfectly.

25 MR. ICOVE: Yes.

1 A I'm good. I'm back again. That despite the
2 individual's ability at a male facility to
3 obtain commissary items or laundry items
4 associated with their preferred gender and
5 present themselves as that in a male facility,
6 they are still at a male facility and there is
7 -- there is -- I do not believe that they can
8 fully experience maybe the fullest social
9 adjustment that taking on the female role
10 would entail, and that, in my opinion, that
11 can only be realized in an environment where
12 there -- such as a female facility in and
13 around other female inmates, in and around an
14 overall environment which is dedicated to
15 female inmates versus a male facility which is
16 not dedicated to female inmates.

17 Q Why is that social adjustment important for
18 performing permanent anatomical surgery?

19 MR. ICOVE: Objection. Go ahead
20 and answer to the best of your knowledge.

21 A In my clinical opinion the social adjustment
22 is almost more -- it's so challenging; in some
23 cases it's even more challenging than
24 adjustment to the physical modifications that
25 would come with gender-reaffirming surgery.

1 Social ramifications, adjustments being so
2 widespread, some more overt, some more subtle,
3 but very impactful in terms of taking on the
4 other gender, in terms of having that person
5 develop the fully informed experience of what
6 that is like to interact with people, to
7 present themselves within society and look at
8 societal response to them. And I just -- in
9 my clinical opinion we want individuals to
10 fully experience that before they go through,
11 as I mentioned before, essentially
12 irreversible surgery. We want to make sure
13 that that person has a fully informed
14 experience.

15 Q Dr. Clifford, Mr. Icové had asked you whether
16 or not this Section 12 of the clinical manual
17 for transgender inmates speaks to a
18 requirement that a transgender female live in
19 a female facility. My question for you is
20 slightly different.

21 Based on your personal knowledge do you
22 know whether the Bureau of Prisons interprets
23 the full-time real life experience described
24 in Section 12 as requiring living in a prison
25 consistent with one's target gender identity?

1 MR. ICOVE: Objection.

2 A Yes, I believe that that is the agency's
3 interpretation of that.

4 MR. GARDNER: Thank you. I have no
5 further questions.

6 MR. ICOVE: Just one.

7 RECROSS-EXAMINATION

8 By Mr. Icove:

9 Q Have you seen any documents that support the
10 finding that -- or your opinion that it's the
11 agency's interpretation that an inmate must be
12 in a female facility in order to fulfill that
13 particular requirement of real life
14 experience?

15 A Can you clarify?

16 Q Right, I can -- let me just restate.

17 In regards to the last question that
18 was asked by Mr. Gardner, are you aware of any
19 documents that support that interpretation?

20 A Can you please -- I'm just trying to answer
21 the question fully and accurately.

22 Documentation in terms of? You know, if you
23 can clarify what type of documentation.

24 Q Any kind of documentation that supports that
25 particular interpretation of the agency, the

1 definition of real life experience?

2 A I don't -- yeah, I -- I don't recall anything
3 specific, to my knowledge at this point
4 related to that.

5 Q Thank you very much. I don't have any further
6 questions.

7 MR. GARDNER: We're done.

8 (Deposition concluded at 10:32 p.m.)

9 (Signature not waived.)

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SIGNATURE PAGE

Case Name: Tony Fisher, etc. vs. Federal Bureau
of Prisons, et al.

Case Number: 4:19CV1169

Deponent: Paul Clifford, M.D.

Date: Thursday, July 29, 2021

To the Reporter:

I have read the entire transcript of my
Deposition taken in the captioned matter or the same
has been read to me. I request that the following
changes be entered upon the record for the reasons
indicated.

I have signed my name to the Errata Sheet and
the appropriate Certificate and authorize you to
attach both to the original transcript.

Paul Clifford, M.D.

Subscribed and sworn to before me this
____ day of _____, 2021.

Notary Public
My commission expires:_____.

1 I have read the foregoing transcript from page 1
2 through page 34 and note the following corrections:

3 PAGE-LINE REQUESTED CHANGE REASON FOR CHANGE

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25 Paul Clifford, M.D. [Date]

1 State of Ohio,)
 2 County of Cuyahoga,) SS: CERTIFICATE

3 I, Karen A. Toth, Notary Public in and for the
 4 State of Ohio, duly commissioned and qualified, do
 5 hereby certify that the within named witness,
 6 Paul Clifford, M.D., was by me first duly sworn to
 7 testify the truth, the whole truth, and nothing but
 8 the truth in the cause aforesaid; that the testimony
 9 then given by him was by me reduced to
 10 stenotypy/computer in the presence of said witness,
 11 afterward transcribed, and that the foregoing is a
 12 true and correct transcript of the testimony so
 13 given by him as aforesaid.

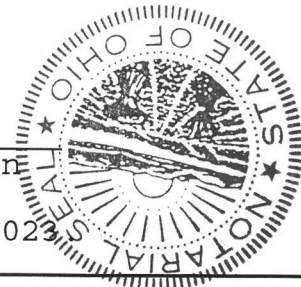
14 I do further certify that this deposition was
 15 taken at the time and place in the foregoing caption
 16 specified and was completed without adjournment

17 I do further certify that I am not a relative,
 18 counsel, or attorney of either party, or otherwise
 19 interested in the event of this action.

20 IN WITNESS WHEREOF, I have hereunto set my
 21 hand and affixed my seal of office at Cleveland,
 22 Ohio on this 9th day of August, 2021.

23 *Karen A. Toth*

24 Karen A. Toth, Notary Public in
 25 and for the State of Ohio.
 My Commission expires May 6, 2023



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I have read the foregoing transcript from page 1
through page 34 and note the following corrections:

PAGE-LINE	REQUESTED CHANGE	REASON FOR CHANGE
Tr. 1:11	"M.D." should be "Psy.D."	Transcription error
Tr. 4:5	"M.D." should be "Psy.D."	Transcription error
Tr. 6:24	"varies" should "varied"	Transcription error
Tr. 7:3	"provision" should be "provision of"	Transcription error
Tr. 9:7	delete "but"	Transcription error
Tr. 12:13	"transferred" should "transfer"	Transcription error
Tr. 35:19	"M.D." should be "Psy.D"	Transcription error
Tr. 36:25	"M.D' should be "Psy.D."	Transcription error
cover sheet	"M.D. should be "Psy.D"	Transcription error

Paul Clifford, Psy.D.
Paul Clifford, M.D.

08/26/2021
[Date]